

**KITTITAS COUNTY
WATER CONSERVANCY BOARD**
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
<div style="border: 1px solid black; border-radius: 50%; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center; margin: 0 auto;"><div style="text-align: center;">Received Date Stamp FEB 17 2004</div></div>	
Reviewed by: _____ Date Reviewed: _____	

Applicant: Theiline P. Scheumann
Family Limited Partnership

Application Number: KITT-16-03

This record of decision was made at an open public meeting of the Kittitas County Water Conservancy Board held on January 20, 2004.

☒ **Approval:**

The Kittitas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on January 20, 2004 and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

☐ **Denial:**

The Kittitas County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on January 20, 2004, and submits this record of decision to the Department of Ecology for final review or consideration.

Signed:


Mary Burke, Chair

Kittitas County Water Conservancy Board

Date: 2-4-2004

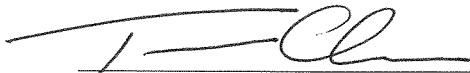
Approves ☒
Denies ☐
Recuse ☐


Pat Deneen, Member

Kittitas County Water Conservancy Board

Date: 2-9-04

Approves ☐
Denies ☐
Recuse ☐


Tom Chini, Member

Kittitas County Water Conservancy Board

Date: 2-5-04

Approves ☒
Denies ☐
Recuse ☐

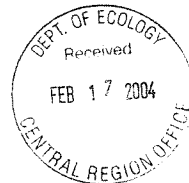
Mailed to the Department of Ecology Central Regional Office of Ecology, via certified mail, and other interested parties on _____.

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KITTITAS COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer

Report of Examination
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON



<input checked="" type="checkbox"/> Surface Water		<input type="checkbox"/> Ground Water	
DATE APPLICATION RECEIVED JUNE 17, 2003	PERMIT NUMBER	CERTIFICATE NUMBER	CHANGE APPLICATION NUMBER KITT-16-03

NAME THEILINE P. SCHEUMANN FAMILY LIMITED PARTNERSHIP			
ADDRESS (STREET) 1111 THIRD AVE, SUITE 3100	(CITY) SEATTLE	(STATE) WASHINGTON	(ZIP CODE) 98101

Changes Proposed:

<input checked="" type="checkbox"/> Point of Diversion/Withdrawal	<input type="checkbox"/> Place of Use	<input type="checkbox"/> Purpose	<input type="checkbox"/> Temporary	<input type="checkbox"/> Other
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DECISION HISTORICAL SUMMARY

Existing Use						Proposed Use					
QUANTITY, TYPE OF USE, PERIOD OF USE .80 cfs, 51 acre-feet per year Irrigation of 4 acres, March 1 through October 31						QUANTITY, TYPE OF USE, PERIOD OF USE .80 cfs, 51 acre-feet per year Irrigation of 4 acres, March 1 through October 31					
Point of Diversion or Withdrawal SOURCE Fogey Creek TRIBUTARY OF (IF SURFACE WATER)						Point of Diversion or Withdrawal SOURCE Fogey Creek TRIBUTARY OF (IF SURFACE WATER)					
NO. 1300 ft north and 400 ft west of the SW corner of Sec. 13	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N. 18 North	RANGE, 17 East	NO. 800 feet down-stream from where Fogey Creek is intercepted by Packwood Canal	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N. 18 North	RANGE, 17 East
Place of Use LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED: E 1/2 E 1/2 SE 1/4 SE 1/4 Sec. 13, T. 18 N., R. 17 E.W.M.						Place of Use LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED Same					
NO. E 1/2 E 1/2	1/4 SE 1/4	1/4 SE 1/4	SECTION 13	TOWNSHIP N. 18 N.	RANGE, 17 E.	NO. E 1/2 E 1/2	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N. 18 N.	RANGE, 17 E.

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

Water Right Priority Date: January 30, 1889

BOARD'S TENTATIVE DETERMINATION

MAXIMUM CUB FT/ SECOND .80	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 51	TYPE OF USE, PERIOD OF USE Irrigation, March 1 through October 31						
SOURCE Fogey Creek			TRIBUTARY OF (IF SURFACE WATER)						
AT A POINT LOCATED 800 ft downstream from where Fogey Creek is intercepted by the Packwood Canal			1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N. 18 N.	RANGE 17 E.	WRIA	COUNTY KITTITAS
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED E 1/2 E 1/2 SE 1/4 SE 1/4 of Section 13, T. 18 N., Range 17 E.W.M.									
PARCEL NO	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N 18 N	RANGE, 17 E				

Continued

Scheumann has not abandoned or relinquished any portion of its surface water rights for irrigation purposes, as outlined above. The record demonstrates that Scheumann continuously used its water to irrigate its land in accordance with his right, and the *Acquavella* determination. This use has continued up to its application for a change in point of diversion, thereby demonstrating its intent to not abandon the right and to use the historical amount of water allotted to irrigate its property.

5. *Geologic, Hydrogeologic and Scientific Investigations*

The Board did not consider any new geologic, hydrogeologic or other scientific investigations to be necessary for evaluation of this application.

CONCLUSIONS

1. Scheumann's application and supporting materials, including a copy of the Ecology water right file, are in the proper form and contain all information required by the Board for making a conditional decision.
2. Notification of Scheumann's application and the Board's consideration thereof was properly published as required by law. More than thirty days passed between the last date of publication (October 20, 2003) and the Board's hearing and decision on the application, January 20, 2004.
3. Proper notification of Scheumann's application was given to all necessary agencies.
4. SEPA review was not necessary.
5. No protests, objections, claims of impairment or injury or requests to intervene were filed.
6. The water right proposed for a change in diversion point is a valid right for the full instantaneous and annual quantities stated in the Report of the Referee.
7. The water right proposed for a change in diversion point is subject to the jurisdiction of the Superior Court of Yakima County conducting the *Acquavella* surface water adjudication.
8. The change of point of diversion: a) will not enlarge Scheumann's existing water right; b) will not impair existing water rights, pending applications, or instream flows; c) is from the same source; and d) is not detrimental to the public interest.
9. The existing and proposed points of diversion divert water from the same body of public surface water and will not expand the current water rights as stated by the Report of the Referee.
10. The change in point of diversion is in accordance with applicable laws, rules, policies, and guidelines.
11. A Conditional Final Order, number 77-2-01484-5, for Subbasin 8 (Thorp), confirming water rights described in this document, which was signed by Sidney P. Ottem, Court Commissioner, on October 9, 2003.

RECOMMENDATIONS

Based on the information and findings described above, the Board conditionally approves Scheumann's request to permanently change the point of diversion for Surface Water Court Claim No. 01335, from its current location at 1300 feet north and 400 feet west of the southeast corner of Section 13, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, T. 18 N., R. 17 E.W.M., to a new location at a point 800 feet downstream from where Fogey Creek is intercepted by the Packwood Canal, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, T. 18 N., R. 17 E.W.M. All other attributes of the surface water right will remain the same.

PROVISIONS AND CONDITIONS

1. *Conditions and Limitations*

The following conditions shall apply:

1) The total diversion between this right and the right to Fogey Creek with a June 30, 1903, date of priority delivered through the same common diversion and pipeline shall not exceed 4.71 cfs.

2. *Mitigation*

There are no mitigation requirements.

3. *Schedule for Development and Completion*

Upon approval of the change in point of diversion, Scheumann will begin construction of the new diversion point before July 1, 2004. Full application of the authorized quantities to beneficial use from the new point of diversion shall occur by July 1, 2006.

DATED this 4 day of February, 2004

KITTITAS COUNTY WATER CONSERVANCY BOARD

BY: Mary J. Bonke

Continued

BY:

TL J Co

BY:

Mary J Burke

BY:

[Signature]

Signed at Ellensburg, Washington

This 4 day of February 2004

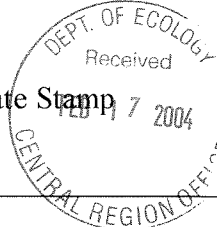
Mary J Burke Chair
Kittitas County Water Conservancy Board

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**KITTITAS COUNTY
WATER CONSERVANCY BOARD**
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	
Date Stamp	
Reviewed by:	_____
Date Reviewed:	_____

Applicant: Theiline P. Scheumann
Family Limited Partnership

Application Number: KITT-17-03

This record of decision was made at an open public meeting of the Kittitas County Water Conservancy Board held on January 20, 2004.

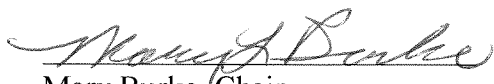
☒ **Approval:**

The Kittitas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on January 20, 2004 and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

☐ **Denial:**


The Kittitas County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on January 20, 2004 and submits this record of decision to the Department of Ecology for final review or consideration.

Signed:


Mary Burke, Chair
Kittitas County Water Conservancy Board

Date: 2-4-04

Approves ☒
Denies ☐
Recuse ☐


Pat Deneen, Member
Kittitas County Water Conservancy Board

Date: 2-9-04

Approves ☐
Denies ☐
Recuse ☐


Tom Chini, Member
Kittitas County Water Conservancy Board

Date: 2-4-04

Approves ☒
Denies ☐
Recuse ☐

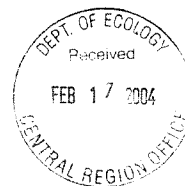
Mailed to the Department of Ecology Central Regional Office of Ecology, via certified mail, and other interested parties on _____.

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KITTITAS COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
Report of Examination

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON



<input checked="" type="checkbox"/> Surface Water	<input type="checkbox"/> Ground Water		
DATE APPLICATION RECEIVED JUNE 17, 2003	PERMIT NUMBER	CERTIFICATE NUMBER	CHANGE APPLICATION NUMBER KITT-17-03

NAME THEILINE P. SCHEUMANN FAMILY LIMITED PARTNERSHIP			
ADDRESS (STREET) 1111 THIRD AVE, SUITE 3100	(CITY) SEATTLE	(STATE) WASHINGTON	(ZIP CODE) 98101

Changes Proposed:

☒ Point of Diversion/Withdrawal ☐ Place of Use ☐ Purpose ☐ Temporary ☐ Other

DECISION HISTORICAL SUMMARY

Existing Use						Proposed Use					
QUANTITY, TYPE OF USE, PERIOD OF USE 4.71 cfs, 765 acre-feet per year Irrigation of 60 acres, March 1 through October 31						QUANTITY, TYPE OF USE, PERIOD OF USE 4.71 cfs, 765 acre-feet per year Irrigation of 4 acres, March 1 through October 31					
Point of Diversion or Withdrawal						Point of Diversion or Withdrawal					
SOURCE Fogey Creek						SOURCE Fogey Creek					
TRIBUTARY OF (IF SURFACE WATER)						TRIBUTARY OF (IF SURFACE WATER)					
NO. 1300 ft north and 400 ft west of the SW corner of Sec. 13	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N 18 North	RANGE 17 East	NO. 800 feet down-stream from where Fogey Creek is intercepted by Packwood Canal	1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N 18 North	RANGE 17 East
Place of Use						Place of Use					
LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED: That portion of Government Lot 1 lying East of the Packwood Canal and that portion of the E 1/2 NW 1/4 lying west of the Yakima River both in:						LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED Same					
NO	1/4	1/4	SECTION 19	TOWNSHIP N 18 N.	RANGE 18 E.	NO	1/4	1/4	SECTION 19	TOWNSHIP N 18 N.	RANGE 17 E.

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

Water Right Priority Date: **January 30, 1889** **BOARD'S TENTATIVE DETERMINATION**

MAXIMUM CUB FT/ SECOND 4.71	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 765	TYPE OF USE, PERIOD OF USE Irrigation, March 1 through October 31						
SOURCE Fogey Creek			TRIBUTARY OF (IF SURFACE WATER)						
AT A POINT LOCATED: 800 ft downstream from where Fogey Creek is intercepted by the Packwood Canal			1/4 SE	1/4 SE	SECTION 13	TOWNSHIP N 18 N.	RANGE 17 E.	WRIA	COUNTY KITTITAS
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED									
That portion of Government Lot 1 lying east of the Packwood Canal, and that portion of the E 1/2 NW 1/4 lying west of the Yakima River, both in:									
PARCEL NO	1/4	1/4	SECTION 19	TOWNSHIP N 18 N	RANGE 17 E				

DESCRIPTION OF PROPOSED WORKS

Diversion structure directly taking waters from Fogey Creek into an irrigation system for irrigation of acreage.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:
July 1, 2004	July 1, 2005	July 1, 2006

REPORT

See WAC 173-153-130 - The following sections may be expanded onto additional pages.

BACKGROUND

The water right proposed for transfer is a surface water right, more completely described as follows:

Surface Water Claim No.:	01335
Priority Date:	June 30, 1903
Source:	Fogey Creek
Purpose of Use:	Irrigation of 60 acres
Period of Use:	March 1 through October 31
Maximum Quantity:	4.71 cubic foot per second
Maximum Acre Feet per year:	765 acre-feet per year
Point of Diversion:	1300 feet north and 400 feet west of the SE corner of Section 13, being within the SE ¼ SE ¼ of Section 13, T. 18 N., R. 17 E.W.M.
Place of Use:	That portion of Government Lot 1 lying east of the Packwood Canal, and that portion of the E ½ NW ¼ lying west of the Yakima River, both in section 19, T. 18 N., R. 17 E.W.M.
Limitation on Use:	The total diversion between this right and the right to Fogey Creek with a January 30, 1889, date of priority delivered through the common diversion and pipeline shall not exceed 4.71 cfs.

The surface water right described above has been in continuous use for the past five years, with no abandonment or relinquishment. It has been adjudicated in the *Acquavella* proceedings as such. A copy of the Report of Referee with regards to this water right claim is attached hereto as Exhibit "A".

Upon review of the complete record, including the Ecology water right file and information submitted by the Theiline P. Scheumann Family Limited Partnership, the successor to claimant Theiline P. Scheumann, the Board tentatively determines that the above-described surface water right point of diversion is valid for transfer to a new diversion point. The annual quantity used will not change, the land being irrigated remains the same, and there is no increase in water rights as a result of the change in point of diversion.

COMMENTS AND PROTESTS

Public notice of the application was published in the *Ellensburg Daily Record* on October 13, 2003, and October 20, 2003. The affidavit of publication is part of the administrative record and attached hereto as Exhibit "B". The Board notified relevant agencies of the application. The agency notification checklist is part of the administrative record.

The Board received no comments on the Scheumann application. The Board received no protests, objections, claims of impairment or injury, or requests to intervene.

INVESTIGATION

1. *Effect of proposed transfer on other water rights, pending applications, and instream flows.*

The proposed change is to change the point of diversion from Fogey Creek, not to enlarge the water right or change the place of use. The new point of diversion from Fogey Creek will serve only the lands to which the Scheumann water right pertains. Therefore, there is no enlargement of an existing water right and the water will come from the same point of origin as it had under the original point of diversion.

The Board's review of all available information also indicates that the proposed change of point of diversion will not impair other water rights, pending applications, or instream flows, in part because it is not an enlargement of a current water right, and is not from a different water source. Based on the Board's review of information regarding other surface water rights and applications in the vicinity of the proposed point of diversion, the Board does not foresee any adverse impact on any existing surface water rights or applications resulting from changing the point of diversion for the above-described water right. Information reviewed includes information from Ecology's Water Rights Application Tracking System (WRATS) regarding all existing surface water rights and applications within the approximate area of the proposed point of diversion.

2. *Site Visit*

A site visit was conducted on October 17, 2003. Pat Deneen of the Kittitas County Water Conservancy Board conducted the site visit with the applicant. The Board held a regular meeting on October 21, 2003, where Mr. Deneen reported on and confirmed the site visit to the remaining members of the Board.

3. *Public Interest*

The requested change in point of diversion will not be detrimental to the public interest. The Scheumann Limited Partnership will not take more water from Fogey Creek than it is currently allotted under the existing decision in *Acquavella*.

4. *Abandonment and Relinquishment*

Scheumann has not abandoned or relinquished any portion of its surface water rights for irrigation purposes, as outlined above. The record demonstrates that Scheumann continuously used its water to irrigate its land in accordance with his right, and the *Acquavella* determination. This use has continued up to its application for a change in point of diversion, thereby demonstrating its intent to not abandon the right and to use the historical amount of water allotted to irrigate its property.

5. *Geologic, Hydrogeologic and Scientific Investigations*

The Board did not consider any new geologic, hydrogeologic or other scientific investigations to be necessary for evaluation of this application.

CONCLUSIONS

1. Scheumann's application and supporting materials, including a copy of the Ecology water right file, are in the proper form and contain all information required by the Board for making a conditional decision.
2. Notification of Scheumann's application and the Board's consideration thereof was properly published as required by law. More than thirty days passed between the last date of publication (October 20, 2003) and the Board's hearing and decision on the application, on January 20, 2004.
3. Proper notification of Scheumann's application was given to all necessary agencies.
4. SEPA review was not necessary.
5. No protests, objections, claims of impairment or injury or requests to intervene were filed.
6. The water right proposed for a change in diversion point is a valid right for the full instantaneous and annual quantities stated in the Report of the Referee.
7. The water right proposed for a change in diversion point is subject to the jurisdiction of the Superior Court of Yakima County conducting the *Acquavella* surface water adjudication.
8. The change of point of diversion: a) will not enlarge Scheumann's existing water right; b) will not impair existing water rights, pending applications, or instream flows; c) is from the same source; and d) is not detrimental to the public interest.
9. The existing and proposed points of diversion divert water from the same body of public surface water and will not expand the current water rights as stated by the Report of the Referee.
10. The change in point of diversion is in accordance with applicable laws, rules, policies, and guidelines.
11. A Conditional Final Order, numbered 77-2-01484-5 for Subbasin 8 (Thorp), confirming water rights described in this document, which was signed by Sidney P. Ottem, Court Commissioner, on October 9, 2003.

RECOMMENDATIONS

Based on the information and findings described above, the Board conditionally approves Scheumann's request to permanently change the point of diversion for Surface Water Court Claim No. 01335, from its current location at 1300 feet north and 400 feet west of the southeast corner of Section 13, being within the SE ¼ SE ¼ of Section 13, T. 18 N., R. 17 E.W.M., to a new location at a point 800 feet downstream from where Fogey Creek is intercepted by the Packwood Canal, being within the SE ¼ SE ¼ of Section 13, T. 18 N., R. 17 E.W.M. All other attributes of the surface water right will remain the same.

PROVISIONS AND CONDITIONS

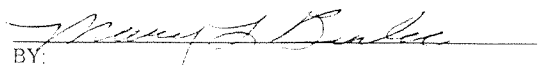
1. *Conditions and Limitations*

The following conditions shall apply:

- 1) The total diversion between this right and the right to Fogey Creek with a January 30, 1889, date of priority delivered through the same common diversion and pipeline shall not exceed 4.71 cfs.
2. *Mitigation*
There are no mitigation requirements.
3. *Schedule for Development and Completion*
Upon approval of the change in point of diversion, Scheumann will begin construction of the new diversion point before July 1, 2004. Full application of the authorized quantities to beneficial use from the new point of diversion shall occur by July 1, 2006.

DATED this 4 day of February 2004

KITTITAS COUNTY WATER CONSERVANCY BOARD

BY: 

Continued.

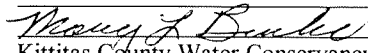
BY: 

BY: 

BY: _____

Signed at Ellensburg, Washington

This 4 day of February 2004

 Chair
Kittitas County Water Conservancy Board

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For attachments not included or for more information please contact:

Daniel R. Haller, P.E.
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15 W Yakima Ave, Suite 200
Yakima, WA 98902-3452
(509) 454-4255 phone
(509) 575-2809 fax
dhal461@ecy.wa.gov